

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KATHLEEN P. MULLINIX,

Plaintiff,

V.

KIKI BOGORAD-GROSS and LEONARD P.
BOGORAD, As They Are Executors of the Will of
Lawrence Bogorad,

Defendants.

Civil Action No. 04-12684-WGY

**AFFIDAVIT OF MICHELLE DINEEN JERRETT, ESQ. IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO UNDESIGNATE AS
CONFIDENTIAL DOCUMENTS COOP 00031-32, COOP 00050-53, AND COOP 00054**

Michelle L. Dineen Jerrett hereby deposes and states as follows:

1. I am an associate at the firm of Choate, Hall & Stewart LLP, counsel to the Plaintiff Kathleen P. Mullinix. I make this affidavit in support of the Plaintiff's Opposition to Defendants' Motion to Undesignate as Confidential Documents COOP 00031-32, COOP 00050-53, and COOP 00054, submitted herewith, based upon my personal knowledge and belief.
2. On or about November 11, 2005, Lisa M. Hodes, counsel to the Defendants, delivered documents Bates labeled PRUD 0001 - PRUD 00273, produced by non-party Prudential Douglas Elliman. On or about December 12, 2005 Larry L. Varn, counsel to the Defendants, delivered via email documents Bates labeled COOP 00001 - COOP 00460, produced by non-party 1050 Fifth Avenue, Inc.

3. At or around the time we received documents PRUD 0001 - PRUD 00273, I informed Ms. Hodes that I viewed many of these documents to be confidential, as they contained, *inter alia*, financial information relating to my client. Ms. Hodes and I agreed to treat the produced documents as confidential, to be viewed only by the attorneys in this case, until such time as the parties could negotiate a stipulated protective order and confidentiality agreement. Ms. Hodes agreed to treat these documents as "Confidential" and to maintain them as "For Attorney's Eyes Only." After receiving documents COOP 00001 - COOP 00460, Ms. Hodes and I agreed that the same designation would apply to those documents as well. *See* Email exchange between Lisa M. Hodes and Michelle Dineen Jerrett, dated November 14, 2005, attached hereto as Exhibit 1.
4. Throughout January 2006, I communicated with Ms. Hodes about drafting a stipulated protective order. We were not able to agree upon a stipulated protective order. Subsequently, the Plaintiff moved the Court to enter a protective order. The Court granted the Plaintiff's Motion For Entry Of Protective Order Governing The Disclosure And Use Of Confidential Documents And Other Confidential Information and entered a modified protective order on March 7, 2006.
5. The documents produced by 1050 Fifth Avenue, Inc., including COOP 00031-32, COOP 00050-53 and COOP 00054, remained designated as "Confidential" and "For Attorneys' Eyes Only."

Signed under the pain of penalties of perjury this 8th day of June 2006.

/s/ Michelle Dineen Jerrett
Michelle Dineen Jerrett, Esq.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on June 8, 2006.

/s/ Sara E. Solfanelli

Exhibit 1

Solfanelli, Sara E.

Subject: Mullinix litigation

-----Original Message-----

From: Hodes, Lisa M. [mailto:lhodes@sandw.com]
Sent: Monday, November 14, 2005 2:01 PM
To: Dineen Jerrett, Michelle L.
Subject: RE: Mullinix litigation

Michelle:

Regarding the proposed protective order, please provide us with a draft. Also, both depositions scheduled for 11/16 are canceled due to scheduling conflicts. November 30 has been selected as the new date with 1050 Fifth Avenue, Inc. to be deposed at 10:00 a.m. at our NY office. An amended subpoena will be sent shortly.

Please let me know if you have questions.

Thanks,
Lisa

-----Original Message-----

From: Dineen Jerrett, Michelle L. [mailto:MDineenJerrett@choate.com]
Sent: Monday, November 14, 2005 10:53 AM
To: Hodes, Lisa M.
Cc: Kenna, Larry; Solfanelli, Sara E.
Subject: Mullinix litigation

Lisa-

On Friday afternoon, I received the documents produced by Prudential Douglas Elliman in response to the subpoena from your office. Thank you for sending them to me.

Please note that we consider many of the documents to be of a confidential nature. To that end, we expect that you will not share the documents with anyone, including your clients, until the parties can negotiate and execute a stipulated protective order and confidentiality agreement in this case.

Also, I would like to follow up with you on our conversation on Friday with respect to the depositions that have been noticed for Wednesday. As of Friday, I understand you had not heard from anyone from 1050 Fifth Avenue, Inc. respecting the subpoena and deposition. As I indicated the other day, I do not believe it makes sense to travel to New York twice for these depositions and would appreciate hearing from you on that issue.

Thanks in advance.

Michelle

Michelle L. Dineen Jerrett, Esq.

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6/8/2006

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